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DOC #:
DATE FILED: 9-24-13

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MEMO ENDORSED

September 23, 2013

By Facsimile to 212-805-7949
Kevin. P. Castel, U.S.D.J.
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007-1312

*The terms of the
proposed settlement are
fair, reasonable and
adequate and
they are
approved.*

SO ORDERED.

[Signature]
USDJ

Re: Jacinto Quiroz-Sanchez et al. v. Mediterraneo Restaurant, et al.,
13-CIV-0865 (PKC)

9-25-13

Your Honor:

I submit this letter with Defendants' consent to request approval of the enclosed Settlement Agreement, which settles wage-and-hour claims under the Fair Labor Standards Act and New York Labor Law¹. As explained herein, the Settlement Agreement should be approved as fair and reasonable because (1) the fact-intensive nature of Plaintiffs' claims creates litigation risk for all parties, (2) the settlement was negotiated at arms-length between counsel, with the assistance of a Court-appointed mediator, (3) the settlement ensures payment of a significant percentage of the total potential recovery, and (4) perhaps most important, Defendants' financial condition presents a substantial collection risk if Plaintiffs were to litigate this case through a potential judgment.

Plaintiffs worked for the Defendants' company, a restaurant, predominantly as busboys whose tasks included, but were not limited to, busing tables, washing dishes, sweeping, and mopping. Plaintiffs' start dates and end dates differ, but most Plaintiffs began working before December 2006 and all Plaintiffs ended their employment between November and December 2012. The analysis for each Plaintiff is therefore conducted from their specific start date through each Plaintiff's individual end date.

Although the complaint alleged that the plaintiffs worked 12 hour days, six days a week, this did not make allowance for breaks which total to one hour per day, which the Plaintiffs do not dispute for the purposes of negotiation. As is common in the dining industry, there were some weeks in which the Plaintiffs did not work a full 40 hours, due to sickness or other personal

¹ This letter is submitted in furtherance of settlement communications. The parties reserve all rights under FRE 408, CPLR § 4547, and all other evidentiary rules governing settlement communications.

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issues. Because of the time where Plaintiffs worked 66 hour weeks and other time where the Plaintiffs worked less than 40 hour weeks, I was satisfied that an average work week of 50 hours, inclusive of 10 hours of overtime a week, was a fair and reasonable compromise for purposes of negotiation.

The calculations for each individual Plaintiff are demonstrated in the enclosed spreadsheet. A summary of the claim by Plaintiff is as follows:

Employee	Wages	NYLD	FLD	SOH	SOH-LD	Total
Jacinto Quiroz-Sanchez	\$12,076.09	\$1,554.35	\$5,858.70	\$13,103.70	\$6,081.68	\$38,674.51
Omar Beristain-Lopez	\$14,875.82	\$1,818.13	\$7,603.29	\$12,219.20	\$5,659.36	\$42,175.80
Jose Luis Beristain-Lopez	\$9,226.09	\$4,808.88	\$2,066.67	\$9,801.00	\$5,288.63	\$31,191.26
Jaime Mendez Quiroz	\$8,895.65	\$ 466.30	\$7,030.43	\$6,737.00	\$4,022.38	\$27,151.77
TOTAL	\$45,073.64	\$8,647.66	\$22,559.09	\$41,860.90	\$21,052.04	\$139,193.33

The gross settlement figure accepted by the Plaintiffs was \$100,000.00. This amount will be allocated to the Plaintiffs' regular time wage claim, overtime wage claim, spread of hours claim, and to liquidated damages, and is inclusive of attorney's fees, which are on a one-third contingency basis. Since the total of the wage claim, at an average of 10 hours of overtime per week, was \$139,193.33, this means that as a percentage, the settlement recovered 72% of the Plaintiffs' total claim with all liquidated damages.

In order to obviate litigation at this early stage which could always entail substantial discounts for periods of absence from work, breaks, and other interruptions, and to incentivize the Defendants to contribute funds which would otherwise have been utilized for defense costs toward a settlement, the parties mutually agreed to settle as indicated above. The Plaintiffs also wish to avoid protracted litigation. Each of the Plaintiffs have verbally advised me of their decision to accept the settlement rather than continuing the litigation.

The settlement was achieved at a May 31, 2013 mediation session between the parties before a Court-appointed mediator. Prior to and during the mediation session, the parties engaged in an informal exchange of information concerning Defendants' financial condition, which included a presentation by Defendants' accountant concerning the corporate financial statements and the individuals' net worth. This information satisfied me that enforcement of a potential judgment would be costly, time-consuming and would present a collection risk.

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It is respectfully requested that the requisite fairness finding be made with respect to the proposed settlement.

Respectfully submitted,

_____/s/_____
William Cafaro (WC 2730)
Attorney for Plaintiff

cc: Arthur J. Robb, Esq.

Quiroz-Sanchez, et al. v. Ma. Vi. Do. Rest. Inc., et al.,
13-Civ-0865

Employee	Wages	NYLD	FLD	SOH	SOH-LD	Total
Jacinto Quiroz-Sanchez	\$ 12,076.09	\$ 1,554.35	\$ 5,858.70	\$13,103.70	\$6,081.68	\$ 38,674.51
Omar Beristain-Lopez	\$ 14,875.82	\$ 1,818.13	\$ 7,603.29	\$ 12,219.20	\$ 5,659.36	\$ 42,175.80
Jose Luis Beristain-Lopez	\$ 9,226.09	\$ 4,808.88	\$ 2,066.67	\$ 9,801.00	\$ 5,288.63	\$ 31,191.26
Jaime Mendez Quiroz	\$ 8,895.65	\$ 466.30	\$ 7,030.43	\$ 6,737.00	\$ 4,022.38	\$ 27,151.77
TOTAL	\$ 45,073.64	\$ 8,647.66	\$ 22,559.09	\$ 41,860.90	\$ 21,052.04	\$ 139,193.33

Jacinto Quiroz-Sanchez
Index No.: 13-Civ-0865

NYLL Overtime Claim:

Period 1	2/6/2007	2/5/2010	156					
Hrs/Wk	\$/Wk	RRP						
69	\$550.00	\$7.97						
OT Min	Less RRP	Hrly Def	OT Hrs/Wk	x# Weeks				
\$11.96	\$7.97	\$3.99	10	156	\$6,217.39	\$1,554.35	\$7,771.74	

FLSA Overtime Claim:

Period 2	2/6/2010	4/10/2011	61					
Hrs/Wk	\$/Wk	RRP						
69	\$550.00	\$7.97						
OT Min	Less RRP	Hrly Def	OT Hrs/Wk	x# Weeks				
\$11.96	\$7.97	\$3.99	10	61	\$2,431.16	\$2,431.16	\$4,862.32	

Period 3	4/11/2011	12/8/2012	86					
Hrs/Wk	\$/Wk	RRP						
69	\$550.00	\$7.97						
OT Min	Less RRP	Hrly Def	OT Hrs/Wk	x# Weeks				
\$11.96	\$7.97	\$3.99	10	86	\$3,427.54	\$3,427.54	\$6,855.07	

Spread of Hours Claim:

Spread of Hours Claim:					State	Federal	
			# Weeks	Wages	Liquidated	Liquidated	Total
Period 4	2/6/2007	7/23/2009	128				
Min Wage	Days/wk	Wkly Def					
\$7.15	6	\$42.90	128	\$5,491.20	\$1,372.80		\$6,864.00
Period 5	7/24/2009	4/10/2011	89				
Min Wage	Days/Wk	Wkly Def					
\$7.25	6	\$43.50	89	\$3,871.50	\$967.88		\$4,839.38
Period 6	4/11/2011	12/8/2012	86				
Min Wage	Days/wk	Wkly Def					
\$7.25	6	\$43.50	86	\$3,741.00	\$3,741.00		\$7,482.00
				Total of All Claims			\$ 38,674.51

Omar Beristain-Lopez
13-Civ-0865

NYLL Minimum Wage Claim:

NYLI Minimum Wage Claim:						State	Federal	
# Weeks					Wages	Liquidated	Liquidated	Total
Period 1	1/1/2007	5/1/2009	121					
Hrs/Wk	\$/Wk	RRP						
69	\$480	\$6.96						
Min Wage	Less RRP	Hrly Def	Wkly Def	x # Weeks				
\$7.15	\$6.96	\$0.19	\$7.74	121	\$936.43	\$234.11		\$1,170.54

Period 2	10/2/2009	2/5/2010	18			
Hrs/Wk	\$/Wk	RRP				
67.5	\$445	\$6.59				
MIn Wage	Less RRP	Hrly Def	Wkly Def	x # Weeks		
\$7.15	\$6.59	\$0.56	\$22.30	18	\$401.33	\$501.67

FLSA Minimum Wage Claim:

Period 3	2/6/2010	4/10/2011	61			
Hrs/Wk	\$/Wk	RRP				
67.5	\$ 445.00	\$ 6.59				
Min Wage	Less RRP	Hrly Def	Wkly Def	x# Weeks		
\$7.25	\$ 6.59	\$0.66	\$26.30	61	\$1,604.07	\$1,604.07 \$3,208.15

Period 4	4/11/2011	6/1/2011					7			
Hrs/Wk	\$/Wk	RRP								
67.5	\$445	\$6.59								
Min Wage	Less RRP	Hrly Def	Wkly Def	x # Weeks						
\$7.25	\$6.59	\$0.66	\$26.30	7	\$184.07	\$184.07	\$368.15			

NYLL Overtime Claim:

NYLL Overtime Claim:						State	Federal		
# Weeks						Wages	Liquidated	Liquidated	Total
Period 5	2/6/2007	5/1/2009	116						
Hrs/Wk	\$/Wk	RRP							
69	\$480.00	\$6.96							
OT Min	Less RRP	Hrly Def	OT Hrs/Wk	x# Weeks					
\$10.73	\$6.96	\$3.77	10	116	\$4,371.43	\$1,092.86		\$5,464.29	

Omar Beristain-Lopez
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Period 6	5/2/2009	10/1/2009	21					
Hrs/Wk	\$/Wk	RRP						
69	\$520.00	\$7.54						
OT Min	Less RRP	Hrly Def	OT Hrs/Wk	x# Weeks				
\$11.31	\$7.54	\$3.77	10	21	\$792.49	\$198.12	\$990.61	

Period 7	10/2/2009	2/5/2010	18					
Hrs/Wk	\$/Wk	RRP						
67.5	\$445.00	\$6.59						
OT Min	Less RRP	Hrly Def	OT Hrs/Wk	x# Weeks				
\$10.88	\$6.59	\$4.28	10	18	\$770.83	\$192.71	\$963.54	

FLSA Overtime Claim:

Period 8	2/6/2010	4/10/2011	61					
Hrs/Wk	\$/Wk	RRP						
67.5	\$445.00	\$6.59						
OT Min	Less RRP	Hrly Def	OT Hrs/Wk	x# Weeks				
\$10.88	\$6.59	\$4.28	10	61	\$2,612.27	\$2,612.27	\$5,224.54	

Period 9	4/11/2011	6/1/2011	7					
Hrs/Wk	\$/Wk	RRP						
67.5	\$445.00	\$6.59						
OT Min	Less RRP	Hrly Def	OT Hrs/Wk	x# Weeks				
\$10.88	\$6.59	\$4.28	10	7	\$299.77	\$299.77	\$599.54	

Period 10	6/2/2011	9/1/2012	65					
Hrs/Wk	\$/Wk	RRP						
69	\$550.00	\$7.97						
OT Min	Less RRP	Hrly Def	OT Hrs/Wk	x# Weeks				
\$11.96	\$7.97	\$3.98	10	65	\$2,589.59	\$2,589.59	\$5,179.18	

Omar Beristain-Lopez
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Period 11	9/2/2012	11/1/2012	8						
Hrs/Wk	\$/Wk	RRP							
57.5	\$450.00	\$7.83							
OT Min	Less RRP	Hrly Def	OT Hrs/Wk	x# Weeks					
\$11.75	\$7.83	\$3.92	10	8	\$313.51	\$313.51	\$627.03		

Spread of Hours				# Weeks	Wages	State Liquidated	Federal Liquidated	Total
Period 12	2/6/2007	7/23/2009		128				
Min Wage	Days/wk	Wkly Def						
\$7.15	6	\$42.90	128		\$5,491.20	\$1,372.80		\$6,864.00

Period 13	7/24/2009	10/1/2009	9					
Min Wage	Days/Wk	Wkly Def						
\$7.25	6	\$43.50	9		\$391.50	\$97.88		\$489.38

Period 14	10/2/2009	4/10/2011	79					
Min Wage	Days/wk	Wkly Def						
\$7.25	5	\$36.25	79		\$2,863.75	\$715.94		\$3,579.69

Period 15	4/11/2011	6/1/2011	7					
Min Wage	Days/Wk	Wkly Def						
\$7.25	5	\$36.25	7		\$253.75	\$253.75		\$507.50

Period 16	6/2/2011	11/1/2012	74					
Min Wage	Days/wk	Wkly Def						
\$7.25	6	\$43.50	74		\$3,219.00	\$3,219.00		\$6,438.00

Total of All Claims	\$ 42,175.80
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Jose Luis Beristain
13-Civ-0865

NYLL Overtime Claim:

Period 1	8/1/2008	12/31/2009	73					
Hrs/Wk	\$/Wk	RRP						
69	\$550.00	\$7.97						
OT Min	Less RRP	Hrly Def	OT Hrs/Wk	x# Weeks				
\$11.96	\$7.97	\$3.99	10	73	\$2,909.42	\$727.36		\$3,636.78

Period 2	1/1/2010	2/5/2010	5					
Hrs/Wk	\$/Wk	RRP						
69	\$620.00	\$8.99						
OT Min	Less RRP	Hrly Def	OT Hrs/Wk	x# Weeks				
\$13.48	\$8.99	\$4.49	10	5	\$224.64	\$56.16		\$280.80

FLSA Overtime Claim:

Period 3	2/6/2010	12/31/2010	46					
Hrs/Wk	\$/Wk	RRP						
69	\$620.00	\$8.99						
OT Min	Less RRP	Hrly Def	OT Hrs/Wk	x# Weeks				
\$13.48	\$8.99	\$4.49	10	46	\$2,066.67	\$2,066.67		\$4,133.33

Period 4	1/1/2011	4/10/2011	14					
Hrs/Wk	\$/Wk	RRP						
69	\$550.00	\$7.97						
OT Min	Less RRP	Hrly Def	OT Hrs/Wk	x# Weeks				
\$11.96	\$7.97	\$3.99	10	14	\$557.97	\$557.97		\$1,115.94

Period 5	4/11/2011	12/10/2012	87					
Hrs/Wk	\$/Wk	RRP						
69	\$550.00	\$7.97						
OT Min	Less RRP	Hrly Def	OT Hrs/Wk	x# Weeks				
\$11.96	\$7.97	\$3.99	10	87	\$3,467.39	\$3,467.39		\$6,934.78

Jose Luis Beristain
13-Civ-0865

Spread of Hours Claim:				# Weeks	Wages	State Liquidated	Federal Liquidated	Total
Period 6	8/1/2008	7/23/2009		50				
Min Wage	Days/wk	Wkly Def						
\$7.15	6	\$42.90		50	\$2,145.00	\$536.25		\$2,681.25
Period 7	7/24/2009	4/10/2011		89				
Min Wage	Days/Wk	Wkly Def						
\$7.25	6	\$43.50		89	\$3,871.50	\$967.88		\$4,839.38
Period 8	4/11/2011	12/8/2012		87				
Min Wage	Days/wk	Wkly Def						
\$7.25	6	\$43.50		87	\$3,784.50	\$3,784.50		\$7,569.00
Total of All Claims								\$ 31,191.26

Jaime Mendez Quiroz
13-Civ-0865

NYLL Overtime Claim:

Period 1	5/6/2009	2/5/2010	39				
Hrs/Wk	\$/Wk	RRP					
57.5	\$550.00	\$9.57					
OT Min	Less RRP	Hrly Def	OT Hrs/Wk	x# Weeks			
\$14.35	\$9.57	\$4.78	10	39	\$1,865.22	\$466.30	\$2,331.52

FLSA Overtime Claim:

Period 2	2/6/2010	4/10/2011	61				
Hrs/Wk	\$/Wk	RRP					
57.5	\$550.00	\$9.57					
OT Min	Less RRP	Hrly Def	OT Hrs/Wk	x# Weeks			
\$14.35	\$9.57	\$4.78	10	61	\$2,917.39	\$2,917.39	\$5,834.78

Period 3	4/11/2011	12/3/2012	86				
Hrs/Wk	\$/Wk	RRP					
57.5	\$550.00	\$9.57					
OT Min	Less RRP	Hrly Def	OT Hrs/Wk	x# Weeks			
\$14.35	\$9.57	\$4.78	10	86	\$4,113.04	\$4,113.04	\$8,226.09

Spread of Hours Claim:

				# Weeks	Wages	State Liquidated	Federal Liquidated	Total
Period 4	5/6/2009	7/23/2009	11					
Min Wage	Days/wk	Wkly Def						
\$7.15	5	\$35.75	11		\$393.25	\$98.31		\$491.56
Period 5	7/24/2009	4/10/2011	89					
Min Wage	Days/Wk	Wkly Def						
\$7.25	5	\$36.25	89		\$3,226.25	\$806.56		\$4,032.81
Period 6	4/11/2011	12/3/2012	86					
Min Wage	Days/wk	Wkly Def						
\$7.25	5	\$36.25	86		\$3,117.50	\$3,117.50		\$6,235.00
					Total of All Claims			\$ 27,151.77